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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,177	09/28/2001	Dallas J. Bergh	01RE099 ALBR:0099	5935

7590 04/15/2009
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EXAMINER

NGUYEN, DANNY

ART UNIT	PAPER NUMBER
2836	

MAIL DATE	DELIVERY MODE
04/15/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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In re Application of:
BERGH *et al.*

Serial No.: 09/967,177

Filed: September 28, 2001

Attorney Docket No.: 01RE099 ALBR:0099

SUA SPONTE
DECISION WITHDRAWING HOLDING OF
ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for the failure to file an appeal of the decision by the Board of Patent Appeals and Interferences (BAPI) on June 06, 2008, or further action within the 2-month period after that BAPI decision. A Notice of Abandonment was mailed on September 03, 2008.

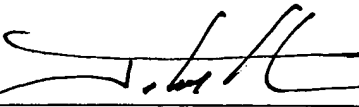
A review of the written record shows that the decision rendered by the BAPI affirmed the rejections made by the examiner with regards to claims 1 – 20, 23-28 and 34-38. Claims 21-22 were objected to as containing allowable subject matter. Claims 29-33 were allowed. The procedure after this type of decision is set forth in M.P.E.P 1214.06 [R-3](II), which states by way of example:

If the Board affirms a rejection of claim 1, claim 2 was objected to prior to appeal as being allowable except for its dependency from claim 1 and independent claim 3 is allowed, the examiner should cancel claims 1 and 2 and issue the application or ex parte reexamination certificate with claim 3 only.

In view of the above, it appears that the application was prematurely abandoned, and that the examiner should take further action.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status and sent to the examiner for further processing.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.


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